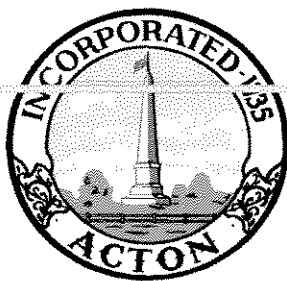


Special Permit – 07-08
Elm Street Field Lights
July 24, 2007

DRAFT



Planning Board

TOWN OF ACTON

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DECISION

07-08

Elm Street Field Lights

Special Permit
July 24, 2007

GRANTED

Decision of the Acton Planning Board (hereinafter the Board) on the application of the Town of Acton (hereinafter the Applicant) for property in Acton, Massachusetts, owned by the Applicant. The property is located at 21 Elm Street and shown on the 2006 Acton Town Atlas map E-2 as parcel 247 (hereinafter the Site).

This Decision is in response to an application for a special permit for outdoor recreational facilities lighting, received by the Acton Planning Department on June 11, 2007, pursuant to Section 5.3.5.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct six light poles that exceed the otherwise applicable 36-foot height limit in the R-2 District where the Site is located.

Cathy Fochtman, Town of Acton Recreation Director, presented the subject matter to the Board at a duly noticed public hearing on July 10, 2007. Also present for the Applicant

were Tom Tidman, Town of Acton Director of Natural Resources, and representatives of the proposed lighting equipment supplier and installer: Nick Ferzacca, The Maricor Group; Jack Blais, Blais Electrical Corp.; Mike Berry, Musco Sports Lighting, LLC. Board members Gregory E. Niemyski (Chairman), Michael C. Densen, Ruth M. Martin, Edmund R. Starzec, and associate member Roland A. Bourdon, III were present throughout the hearing. The Chairman designated Mr. Bourdon, III to sit on the Board to act on this application pursuant to section 10.3.9 of the Bylaw and section 4.2 of the Charter of the Town of Acton. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 An Application entitled "Town of Acton, Elm Street Field Light Project" dated June 5, 2007, prepared by the Town of Acton Recreation Department consisting of:
 - Cover sheet and Table of Contents.
 - Application cover letter by Don P. Johnson, Town Manager, dated June 11, 2007.
 - Photos and list describing the condition of the existing lighting equipment.
 - Features and cost summary of the proposed lighting equipment.
 - Letter regarding Bylaw compliance confirmation from the project engineer Nick Ferzacca, PE, LEED, President of The Maricor Group, dated June 8, 2007.
 - Project support letter from Bernard Kosicki, Chairman, Outdoor Lighting Education Committee.
 - Certified abutters list.
 - Locus map.
 - Elm Street Ball Field Plan (2 sheets) showing existing and proposed light pole locations, dated 8/9/06.
 - Technical proposal and data by Musco Sports Lighting, LLC, multiple pages, dated June 1, 2007.
- 1.2 Additional information submitted by the Applicant:
 - Photographs of similar athletic field lighting installation in Weston, dated 07/26/2002.
 - Copy of slide presentation given at the hearing.
 - Electrical Site Plan, sheets E2.1e, E2.1v, and E2.1h by The Maricor Group, dated 2/28/07.
- 1.3 Interdepartmental communication received from:
 - Acton Fire Chief, dated 6/22/07;
 - Acton Health Director, dated 6/15/07;
 - Acton Tree Warden & Municipal Properties Dir., received 6/15/07;
 - Acton Building Commissioner, dated 6/15/07;
 - Acton Planning Department, dated 7/6/07.
- 1.4 Correspondence received from:
 - Douglas H. Wilkins, Anderson & Kreiger LLP, Town Counsel, dated 6/29/07.
 - Mark T. Donohoe, YOUNAMEIT Realty Trust, dated 6/8/07.

Exhibits 1.1 and 1.2 are referred to herein as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The applicant proposes to install new athletic field lighting poles and lighting equipment at its Elm Street Ball Fields. Proposed are six poles, two at a height of 70 feet and four at a height of 80 feet.
- 2.2 The Applicant has received certification by the installer that as designed the new equipment, luminaires, and lamps comply with the requirements for outdoor recreation facilities lighting of the Bylaw, section 10.6.2.4.c).
- 2.3 The proposed new equipment would replace eight existing wooden light poles that are over 35 years old. They are decaying and potential hazardous.
- 2.4 The existing lamps and luminaires are pre-existing to the current Bylaw requirements and do not comply with them.
- 2.5 The proposed installation would improve field lighting levels and safety on the field, and minimize light trespass onto abutting land as the Bylaw requires.
- 2.6 The Elm Street Field Lighting Project is supported by the Outdoor Lighting Education Committee (OLEC) and the various field user groups.
- 2.7 Agreements for Judgment of 1975 and 1984 address hours of operation and light trespass. The Applicant does not seek to alter the current hours of operation. The proposed installation would comply with the current requirements of the Bylaw for shielding and light trespass and appears to accomplish the ultimate goal of the 1984 Agreement.
- 2.8 The installation as proposed is allowed in every zoning district subject to the grant of a special permit by the Planning Board under the Bylaw, section 5.3.5.3.
- 2.9 The proposed height of the light poles suggests that they may have utility for installing various communication transmission devices.
- 2.10 The Board has received comments from various Town departments and others, which are listed in Exhibits 1.3 and 1.4 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 2.11 The Plan as proposed and as approved herein is appropriate for the Site; consistent with the Master Plan; in harmony with the purpose and intent of the Bylaw, specifically Sections 5.3.5.3 and 10.6.2.4.c); and complies in all respects to the applicable requirements of the Bylaw. It will not be detrimental or injurious to the neighborhood.

3 BOARD ACTION

Therefore, the Board voted unanimously (5 in favor, 0 opposed) to GRANT the requested special permit subject to and with the benefit of the following conditions, and limitations.

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit. The Board may

elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.1.1 The athletic field lighting installation for the Elm Street Ball Field shall at all times comply with the requirements of the Bylaw in effect at the time of issuance of this special permit.
- 3.1.2 To the extent that the proposed light poles can structurally support other equipment in addition to the proposed lamps and luminaires, and subject to applicable laws and regulations, the Applicant may permit the installation of monitoring and communication devices by the Town of Acton, its agencies, and others, up to a maximum total pole height of 85 feet.
- 3.1.3 All work on the Site shall be conducted in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the Plan as modified herein.

3.2 LIMITATIONS

The authority granted to the Applicant under this special permit is limited as follows:

- ~~3.2.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.~~
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.2.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.2.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.2.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Planning Board

Gregory E. Niemyski, Chairman

Michael C. Densen

Edmund R. Starzec

Ruth M. Martin

Roland A. Bourdon, III

(or)

Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Planning Director
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Bowen, Town Clerk

Date

Copies furnished:

Owner/Applicant -

hand delivered

Town Clerk

Fire Chief

Assistant Assessor

Building Commissioner

Town Engineer

Natural Resources Director

Police Chief

Health Director

Municipal Properties Director

Town Manager

Recreation Director

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